

Paul Ingrisano

2/19/87

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STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of Authorization to
Operate a Hazardous Waste Management
Facility:

SECRET

ORDER
ON
CONSENT

by: RESOLVE MANUFACTURING, INC.
100 Harmon Avenue
Falconer, New York 14733

Respondent

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the administration and enforcement of Article 27 of the Environmental Conservation Law of the State of New York (the "ECL"), and the regulations promulgated pursuant thereto.

2. Resolve Manufacturing, Inc., ("the Respondent") operates a facility at 100 Harmon Avenue, Falconer, N. Y. Said facility is assigned United States Environmental Protection Agency I.D. No. NYD 980592653.

3. Respondent has conducted operations at that facility involving the storage and treatment of hazardous waste, as defined in Section 27-0901(3) of the ECL, pursuant to a New York State DEC Permit to Operate a Resource (solvent) Recovery Facility (No. 2300) granted February 16, 1981, in accordance with 6 NYCRR Part 360.

4. Said Permit to Operate, with an original expiration date of February 10, 1984, was extended by letter dated February 11, 1985, pending the processing of the Respondent's

renewal application. Respondent has continued operations under the terms and conditions of Permit No. 2300 pursuant to said extension to the present time.

5. On December 3, 1984 the Department received from the Respondent, a renewal application for a permit to operate under 6 NYCRR Part 360 together with a copy of the Part B application submitted to the United States Environmental Protection Agency as required under the federal RCRA program. The Department reviewed this application and notified the Respondent on December 24, 1984, that the application was incomplete.

6. Thereafter, the Department modified 6 NYCRR Part 360 and promulgated new hazardous waste management regulations, 6 NYCRR Part 370, which became effective on July 14, 1985. These new regulations included additional and more stringent requirements for the operation of a hazardous waste management facility which are applicable to the Respondent's permit application.

7. On December 6, 1985 the Department received Respondent's application for a permit to operate pursuant to 6 NYCRR Part 373 together with a RCRA Part B application

(incorporated therein by reference). Resolve was advised by letter dated February 2, 1986 that the RCRA Part B application was deficient and said deficiencies must be resolved with respect to both the federal and state applications.

Respondent was further notified on February 28, 1986 that the Part 373 application was incomplete.

8. On April 15, 1986 Respondent requested an extension of time to respond to the Notice of Deficiency and Notice of Incomplete Application. The Department granted an extension until June 30, 1986. Thereafter Respondent requested an additional 90 day extension to October 1, 1986. This request was not granted by the Department.

9. From March 1986 to July 1986, during the course of routine facility inspections conducted pursuant to the Department's authority under the regulations, and in accordance with the Department's delegated authority under the federal RCRA program, numerous violations of RCRA regulations and permit requirements were noted.

10. In efforts to resolve the ongoing violations, continue operations at the facility, and obtain a valid permit to operate under Part 373, the Respondent entered into an Order on Consent with the Department, wherein the Respondent admitted numerous RCRA and permit violations and agreed to be bound by a performance schedule designed to bring the Respondent into compliance with all applicable regulations.

A copy of said Order on Consent, effective September 11, 1986, is attached hereto as Appendix "A", and incorporated herein by reference.

11. Respondent has failed to comply with the terms and provisions of the Order on Consent, as follows:

(a) On October 9, 1986, an employee of the Department conducted an inspection of the facility and found an excessive inventory of wastes on site (468 drums) in violation of the Consent Order and permit conditions which establish a maximum inventory of 300 drums.

(b) Respondent has been unable to establish adequate financial assurance for closure as required pursuant to 6 NYCRR 373 - 2.8(e), in conjunction with the application for a Permit to Operate under Part 373, And as was required to be established by September 30, 1986 pursuant to the terms of the Consent Order.

(c) Respondent failed to submit a complete Part 373 Permit Application as required on September 30, 1986. An application was submitted October 14, 1986, in conformance with a two-week extension granted by the Department. However, Respondent was notified on December 5, 1986 that the application was incomplete and advised that the deficiencies must be corrected by

December 31, 1986. Respondent has failed to correct the noted deficiencies.

(d) Respondent failed to pay to the Department the monthly installments of the civil penalty due on December 1, 1986 and January 1, 1987, pursuant to the terms of the Consent Order.

(e) Respondent has failed to submit proof of Liability Insurance as required for TSD facilities pursuant to the regulations and as required of the Respondent on September 30, 1986 pursuant to the Consent Order.

12. Respondent admits that it has violated the terms of the Consent order and regulations as here in above set forth. Said violations would constitute a basis for permit revocation or denial of a permit renewal application by the Department pursuant to 6 NYCRR 373-1.6 (1)

13. Respondent has voluntarily elected to cease operations at the facility.

14. Respondent, having been duly advised, waives its right to a hearing on the matter, consents to the issuance and entry of this Order, and agrees to be bound by the provisions, terms and conditions hereof.

NOW THEREFORE, it is ORDERED that:

I. Respondent shall voluntarily surrender and the Department shall revoke Resolve Manufacturing Inc.'s Permit to Operate a Solid Waste Management Facility (Permit

No. 2300) on the effective date of this Order.

II. Respondent shall submit a written closure plan to the Department within fifteen (15) days of the signing of this Order by the Respondent. Said plan shall conform with the requirements of 6 NYCRR 373-3 and shall be reviewed, approved and/or modified by the Department pursuant to the provisions of Section 373-3.7 (c)(4).

III. Respondent shall close the facility pursuant to the approved closure plan within ninety (90) days after approval of the closure plan by the Department, by accomplishing the following:

(a) Within 60 days after approval of the closure plan, all hazardous wastes onsite must be treated, removed from the site, or disposed of in accordance with the approved closure plan.

(b) Closure activities, including the decontamination or disposal of all facility equipment and structures must be completed in accordance with the approved closure plan within 90 days after approval of the closure plan.

(c) When closure is completed, Respondent must submit to the Department, certification by the owner and operator and by an independent professional engineer

registered in New York State that the facility has been closed in accordance with the approved closure plan.

(d) Upon receipt of this certification, the Department will notify the Respondent whether the facility has been closed in accordance with the applicable regulations and the terms of this Order. If the Department determines that closure has not been completed in accordance with the approved Closure Plan, the Department may take any action or pursue any remedy to which it is entitled by law.

IV. The failure of the Respondent to comply with the terms of this Order and perform the work specified in the approved Closure Plan shall constitute a default and a failure to perform an obligation under this Order and under the ECL.

V. If the Respondent desires that any of the provisions of this Order be modified or extended, Respondent shall make timely written application therefore to the Department setting forth reasonable grounds for the relief sought.

VI. The effective date of this Order shall be the date on which it is signed by the Commissioner or his designated representative.

VII. All communication required hereby to be made between the Department and Respondent shall be made in writing and transmitted by United States Postal Service return

receipt requested, or hand delivered to the addresses listed below.

a. All reports and submission here in required to be made by respondents to the Department shall be submitted to each of the following addresses:

New York State Department of Environmental
Conservation
Division of Solid and Hazardous Waste
50 Wolf Road
Albany, New York 12233-0001
Attn: Paul Counterman

New York State Department of Environmental
Conservation
Division of Solid and Hazardous Waste
600 Delaware Avenue
Buffalo, New York 14202
Attn: Edward Belmore, P.E.

United States Environmental
Protection Agency
Region II
26 Federal Plaza
New York, New York 10278
Attn: Andrew Bellina

New York State Department of Environmental
Conservation
Division of Regulatory Affairs
600 Delaware Avenue
Buffalo, New York 140202-1073
Attn: Paul Eismann

New York State Department of Environmental
Conservation
Division of Environmental Enforcement
600 Delaware Avenue
Buffalo, New York 14202-1073
Attn: Jo Ann Gould

b. Communication to be made from the Department to Respondent shall be made as follows:

Resolve Manufacturing, Inc.
P.O. Box 219
Tonawanda, New York 14151
Attn: James Alaimo

c. The Department and Respondent respectively reserve the right to designate other or different addresses on notice to the other.


VIII. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other writing submitted by Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

IX. The provisions of this Order shall be deemed to bind Resolve Manufacturing Inc., its officers, directors, agents, servants, employees, successors and assigns.

X. The provisions of this Order shall constitute the complete and entire agreement between the Respondent and the Department with regard to the closure of the Resolve Manufacturing, Inc. facility at 100 Harmon Avenue, Falconer, New York. No terms, conditions, understandings, or

agreements purporting to modify or vary the terms hereof should be binding unless made in writing and subscribed by the party to be bound.

Dated: June 25, 1987


Henry G. Williams, Commissioner
New York State Department of
Environmental Conservation

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of the foregoing Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained herein.

RESOLVE MANUFACTURING, INC.

BY: [Signature]
TITLE: President
DATE: 2/19/87 - 9/1/87

State of New York)
County of Seneca) s.s.:
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On this 17th day of February, 1987
before me personally came James A. Adams
to me known, who, being by me duly sworn, did depose
and say that he resides in Denmark, NY; that he
is the President of Resolve Manufacturing, Inc., the
corporation described in and which executed the foregoing
instrument; that he knew the seal of said corporation;
that the seal affixed to said instrument was such
corporate seal; that it was so affixed by the order of
the Board of Directors of said corporation, and that
he signed his name thereto by like order.

[Signature]
NOTARY PUBLIC

RICHARD D. YELLEN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1987